

In the Matter of Certificate of Service No. E-567775

Issued to: JOHN BROWN

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JOHN BROWN

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 10 May, 1949, Appellant appeared before an Examiner of the United States Coast Guard at New York City to answer a charge of "misconduct" supported by a specification alleging that while Appellant was serving as a room steward on board the United States Army Tug HENRY GIBBONS, under authority of Certificate of Service No. E-567775, he had in his possession, on or about 28 April, 1949, two marijuana cigarettes, contrary to law. (26 U.S.C. 2593)

At the hearing, Appellant was afforded ample opportunity to obtain counsel but he repeatedly stated that he desired to represent himself. Appellant was also adequately informed as to the other rights to which he was entitled, the nature of the proceedings and the possible outcomes thereof. A plea of "guilty" to the specification and charge was entered and after the Investigating Officer had completed his opening statement and Appellant had been given an opportunity to make a statement, the Examiner found the specification and charge "proved by plea." He thereupon entered an order revoking Certificate of Service No. E-567775 and all other valid certificates of service and licenses issued to Appellant.

The appeal consists of a request for clemency based on Appellant's prior clear record as a merchant seaman for a period of nine years and the fact that he has a family to provide for.

FINDINGS OF FACT

On or about 29 April, 1949, Appellant was serving as a member of the crew in the capacity of room steward on board the U.S.A.T. HENRY GIBBONS, under authority of Certificate of Service No. E-567775, while the ship was at Staten Island, New York, after completion of a foreign voyage. On this date, while Port Patrol Officers were conducting a routine search of the HENRY GIBBONS, Appellant entered his forecandle and removed two marijuana cigarettes from the pocket of his shirt. Almost immediately after this, two of the officers searched Appellant's quarters and his person and found the two marijuana cigarettes in a pocket of the trousers which Appellant was wearing.

Although Appellant had paid no transfer tax on the marijuana, Federal authorities declined

prosecution because of the small amount of marijuana involved.

Appellant had obtained the two marijuana cigarettes from an American seaman while the ship was at Bremerhaven, Germany. Appellant was ashore drinking whiskey when the other seaman asked him if he used marijuana. Due to alcoholic influence, Appellant replied "Yes" although he testified under oath that he has never used it. The other seaman gave the two marijuana cigarettes to Appellant without receiving any payment for them. Appellant put them in his shirt pocket and left them there until he removed them in New York. The shirt had remained in Appellant's locker from the time he returned aboard the ship after having acquired the marijuana cigarettes.

OPINION

Appellant's plea for clemency cannot be considered in view of the necessity of maintaining discipline and safety aboard American merchant vessels. The policy and duty of the Coast Guard are to revoke all documents issued to any seaman who has been found to have any association with narcotics. This policy is consistently followed because of the devastating results known to flow from the use of narcotics. Possession of marijuana is considered to be equally as serious an offense as the actual use. Consequently, such an offense requires drastic action by the Coast Guard despite the personal inconvenience to Appellant, the small amount of marijuana involved and lack of action taken by the Federal authorities.

Appellant's statement that he did not intend to use, sell or give the cigarettes away (R. 7), does not seem to be consistent with his admissions that he knew the cigarettes contained marijuana (R.7), he knew the possession of marijuana without authority was an offense against the laws of the United States (R.5) and he knew that it was wrong to have marijuana cigarettes aboard ship (R. 8); yet he preserved these cigarettes and would have brought them ashore had he not been accosted before the importation was accomplished.

CONCLUSION

Regardless of Appellant's motive in retaining possession of the marijuana cigarettes, the reasons set forth in the Examiner's opinion, together with my above comments, obviate disturbance of the order of revocation.

ORDER

Therefore, the order of the Examiner dated 10 May, 1949, should be, and it is, AFFIRMED.

J.F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 23rd day of September, 1949.

